

ROHIT SINGLA (#213057)  
 JASON RANTANEN (#229404)  
 MUNGER, TOLLES & OLSON LLP  
 560 Mission Street  
 27th Floor  
 San Francisco, CA 94105  
 Telephone: (415) 512-4000  
 Facsimile: (415) 512-4077  
*Email: rohit.singla@mto.com*  
*Email: jason.rantanen@mto.com*

JAMES W. CANNON, JR. (*pro hac vice*)  
 SHANNON H. HUTCHESON (*pro hac vice*)  
 BAKER BOTTS, LLP  
 98 San Jacinto Boulevard  
 Suite 1500  
 Austin, Texas 78701  
 Telephone: (512) 322-2653  
 Facsimile: (512) 322-8353  
*Email: jim.cannon@bakerbotts.com*  
*Email: shannon.hutcheson@bakerbotts.com*

Attorneys for Plaintiffs  
 ABBOTT DIABETES CARE INC.  
 and ABBOTT LABORATORIES

MARIA WYCKOFF BOYCE (*pro hac vice*)  
 BAKER BOTTS, LLP  
 910 Louisiana  
 Houston, Texas 77002  
 Telephone: (713) 229-1922  
 Facsimile: (713) 229-2722  
*Email: maria.boyce@bakerbotts.com*

DAVID G. WILLE (*pro hac vice*)  
 BAKER BOTTS, LLP  
 2001 Ross Avenue  
 Dallas, Texas 75201  
 Telephone: (214) 953-6595  
 Facsimile: (214) 661-4595  
*Email: david.wille@bakerbotts.com*

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

<p>THERASENSE, INC., and ABBOTT                  LABORATORIES,</p> <p style="text-align: center;">Plaintiffs,</p> <p>vs.</p> <p>BECTON, DICKINSON AND CO.,</p> <p style="text-align: center;">Defendant.</p>	<p>CASE NO. C04-2123 MJJ                  CASE NO. C04-3327 MJJ                  CASE NO. C04-3732 MJJ</p> <p><b><del>[PROPOSED]</del> ORDER ON STIPULATION                  REGARDING DISCOVERY</b></p>
--	--

~~PROPOSED~~ ORDER ON  
STIPULATION REGARDING DISCOVERY

The Court hereby ORDERS that discovery in *TheraSense, Inc. and Abbott Laboratories v. Becton, Dickinson and Company, et al.*, Case Nos. C04-2123, C04-3732, and C04-3327, (the “BD/Nova cases”), and *Abbott Diabetes Care Inc. and Abbott Laboratories v. Roche Diagnostics Corporation and Bayer Healthcare LLC*, Case No. C05-3117, (the “Roche/Bayer case”), shall proceed as follows:


(1) All depositions taken in either the BD/Nova cases or the Roche/Bayer case will constitute a deposition in the other case or cases; and

(2) This order will not reduce the number of depositions that each side has been allocated pursuant to the July 14, 2005 Joint Case Management Statement and Order in the BD/Nova cases and the May 8, 2007, Case Management Order in the Roche/Bayer case. Accordingly, if one party requests a deposition in its case, the deposition will be considered as having been noticed and taken in all other cases, but the deposition will not count against the allotted number of depositions to be taken by the non-noticing sides. However, if the deposition of a witness cannot be completed in one day and one party requests the deposition of a witness for one day and a second party requests a second consecutive day of deposition for the same witness, and the witness is produced for a second day, then the deposition will count against both requesting parties’ (and their respective sides’) allotted number of depositions; and

(3) For purposes of this stipulation, Plaintiffs Abbott Diabetes Care Inc. and Abbott Laboratories represent a side in the BD/Nova cases, and Defendants Becton, Dickinson and Company and Nova Biomedical Corp. represent a side in the BD/Nova cases. For purposes of this stipulation, Plaintiffs Abbott Diabetes Care Inc. and Abbott Laboratories represent a side in the Roche/Bayer case, and Defendants Roche Diagnostics Care, Roche Diagnostics

1 Operations, Inc., and Bayer Healthcare LLC represent a side in the Roche/Bayer case.

2  
3 Dated: 6/20/2007

4 By:   
5 Honorable Martin J. Jenkins  
6 UNITED STATES DISTRICT JUDGE  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28